

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.03.2019
CORAM:
THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No.2384 of 2014
M.P.No. 1 of 2014

1. Ahmed Basha
2. Abdulla
3. Mubarak ... Petitioners/Accused 1 to 3

Vs.

1. The State Rep by
Inspector of Police,
Arcot Town Police Station,
Arcot, Vellore District.
(Crime No.867 of 2010) ... Respondent/Complainant

2. M.T.Imran ... Respondents/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the charge sheet in C.C.No.10 of 2013 on the file of the learned Judicial Magistrate, Arcot, Vellore District.

For Petitioner : Mr. N.S.Amarnath
For Respondents :
For R1 : Mr.Mohammed Riyaz
Additional Public Prosecutor.
For R2 : Mr.V.Raghavachari

O R D E R

This Petition has been filed to quash the proceedings in C.C.No.10 of 2013 on the file of the learned Judicial Magistrate, Arcot, Vellore District.

2. The learned counsel appearing for the petitioners submitted that the petitioners are arraigned as A1 to A3 and the trial Court has taken cognizance for the offences under Section 294(B), 323 and 353 of IPC. Even according to the case of the prosecution, charge sheet belatedly filed and as such it is barred by limitation, directly hit under Section 468 of Cr.P.C. The alleged crime allegedly committed by the petitioners on 27.08.2010 and initially registered the case for the offence under Section 294(B) and 323 of IPC. Therefore, the respondent ought to have filed final report on or before 31.08.2011.

Admittedly, the charge sheet has been filed after 31.08.2011. Therefore, the entire proceedings are vitiated and liable to be quashed. He further submitted that while filing charge sheet, the respondent added the offence under Section 353 of IPC, that too after lapse of one year and nine months from the date of alleged occurrence. Further he relied upon the judgment reported in 1956 Cri. L.J. 987 in the case of Raghunath Laxman Parkale Vs. The State, and AIR 1958 Rajasthan 296(Vol. 45, C.100) in the case of State Vs. Rehman and also AIR 1964 Patna 493(Vol.51, V.142) in the case of Thakur Tanti Vs. The State.

2.1. He further submitted that when the charge under Section 353 of IPC framed against a person, he must be at discharging of his official duty at the time of occurrence. Here the second respondent never was discharging his official duty at the time of alleged occurrence took place. Therefore, he prayed for quashment of the entire proceedings.

3. Per contra, the learned counsel appearing for the second respondent/defacto complainant submitted that there are totally three accused and the petitioners are A1 to A3. Though initially the case was registered under Section 294(B) and 323 IPC, after conducting detailed investigation, the petitioners are charged for the offences under Sections 294(B), 323, and 353 of IPC. Further he contended that after registering the FIR, alteration report has been filed by the first respondent adding the offence under Section 353 of IPC against the petitioners. Therefore, the entire proceedings cannot be barred by latches. There are specific averments to attract the offences as against the petitioners and all the points raised by the petitioners have to be established only during the trial and it involves question of facts. Therefore, he prayed for dismissal of the quash petition.

4. The learned Additional Public Prosecutor submitted that as against the petitioners a final report filed for the offences under Section 294(B), 323, 353 of IPC and have taken cognizance in C.C.No.10 of 2013, on the file of the learned Judicial Magistrate, Arcot, Vellore District. There are connecting materials to connect the petitioners and also to prove the charges. After registering the case for the offences under Sections 294(B) and 324 of IPC, subsequently altered into 294(B), 323 and 353 of IPC. Therefore, there is no latches on the part of the first respondent to file final report. Therefore, he prayed for dismissal of the quash petition.

5. Heard Mr.N.S.Amarnath, learned counsel appearing for the petitioners, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the first respondent and Mr.V.Raghavachari, learned counsel appearing for the second respondent.

6. The petitioners are arraigned as A1 to A3. The case of

the complainant is that on 27.08.2010, when the second respondent along with the staff members were reporting the orders in respect of the resolutions of Wakf Board No.4/10 dated 29.04.2010, the petitioners scolded them with filthy language and also pushed him. Therefore, he fell down and sustained injuries. Immediately, he was taken to the hospital for treatment. Therefore, when the second respondent was discharging his official duty, the occurrence took place and as such the offence under Section 353 of IPC is clearly attracted as against the petitioners. Further, the entire proceedings cannot be vitiated on latches since, subsequently the first respondent police altered the offence into Section 353 of IPC.

7. All the judgments cited by the learned counsel appearing for the petitioners, pertaining to the offence under Section 353 of IPC, are not helpful to the petitioners, since when the second respondent was discharging his official duty, the occurrence took place. Further, there are materials to connect the charges for the offences under Sections 294(B), 323 and 353 of IPC. All the points raised by the petitioners cannot be considered here and it involves question of facts. Therefore, the quash petition devoid of merits and liable to be dismissed. However, considering the case is of the year 2013, the trial Court viz., the learned Judicial Magistrate, Arcot, Vellore District is directed to complete the trial proceedings in C.C.No.10 of 2013, within a period of three months from the date of the receipt of a copy of this Order.

8. With the above directions, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

rts

To

1. The Judicial Magistrate Court,
Arcot, Vellore District.
2. The Inspector of Police,
Arcot Town Police Station,
Arcot, Vellore District.

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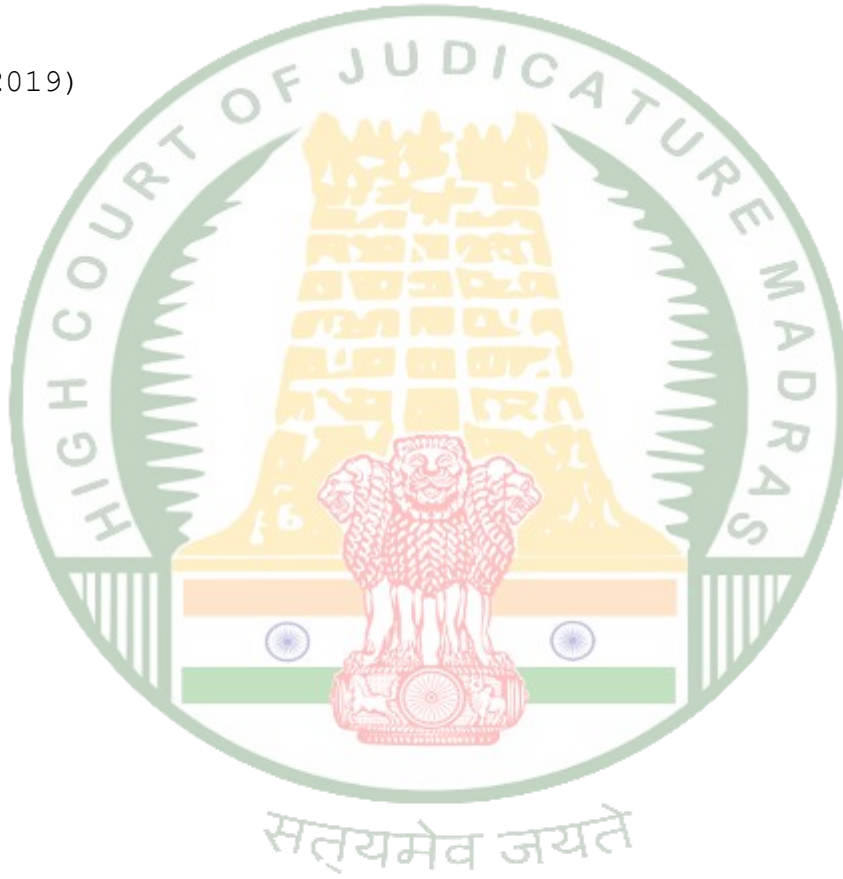
3. The Public Prosecutor,
High Court of Madras,
Chennai.

+1cc to Mr. N.S.Amarnath, Advocate, S.R.No. 20584

+1cc to Mr. V.Raghavachari, Advocate, S.R.No.19295

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M.P.No. 1 of 2014

RSI (CO)
GN(23/03/2019)



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